

1 this time.

2 MR. SEDLAK: Motion to adjourn.

3 MR. SEYMOUR: I make a motion to
4 adjourn.

5 MR. PALMER: Second.

6 MR. ST. CHARLES: Support.

7 Discussion on the motion.

8 All in favor say Aye.

9 BOARD: Aye.

10 MR. ST. CHARLES: All opposed.

11 BOARD: No response.

12 MR. ST. CHARLES: Motion carries.

13 Thank you, gentlemen.

14 We will see you another night.

15 (Meeting adjourned at 10:00 p.m.)

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1 (STATE OF MICHIGAN)
2 COUNTY OF WASHTENAW)

3 Certificate of Notary Public

4 I do hereby certify the witness, whose
5 attached testimony was taken in the above matter,
6 was first duly sworn to tell the truth; the
7 testimony contained herein was reduced to writing
8 in the presence of the witness by means of
9 stenography; afterwards transcribed; and is a true
10 and complete transcript of the testimony given.

11 I further certify that I am not connected by
12 blood or marriage with any of the parties; their
13 attorneys or agents; and that I am not interested,
14 directly or indirectly or financially in the matter
15 of controversy.

16 In witness whereof, I have hereunto set my
17 hand this day at Ann Arbor, Michigan, County of
18 Washtenaw, State of Michigan.

19
20 -----
21 Regina Tina Krzesicki, CSR#004579
22 Certified Shorthand Reporter
23 Notary Public, Washtenaw County,
24 Michigan
25

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Esquire Deposition Services, LLC
(800) 866-5560



A RECORD OF EXCELLENCE

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A RECORD OF EXCELLENCE

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VETERANS PREFERENCE ACT

HEARING BEFORE GREEN OAK TOWNSHIP BOARD

RE: L A R R Y Y O U N G

-----/

DATE: Wednesday, August 14, 2002

TIME: 6:00 p.m.

LOCATION: Green Oak Township Hall

101 Silver Lake Road

Brighton, Michigan

REPORTER: Regina Tina Krzesicki, CSR

<p style="text-align: right;">2</p> <p>1 APPEARANCES</p> <p>2 PEAR, SPERLING, EGGAN, MUSKOVITZ</p> <p>3 By: Mr. Melvin J. Muskovitz</p> <p>4 24 Frank Lloyd Wright Drive.</p> <p>5 Ann Arbor, MI 48105</p> <p>6 (734) 665-4441</p> <p>7 Appearing on behalf of</p> <p>8 Chief Robert Brookins and the</p> <p>9 police department.</p> <p>10</p> <p>11 OSETEK & ASSOCIATES</p> <p>12 By: Mr. Peter Osetek</p> <p>13 412 E. Huron</p> <p>14 Ann Arbor, MI 48104</p> <p>15 (734) 769-4500</p> <p>16 Appearing on behalf of Larry Young.</p> <p>17</p> <p>18 Also present: Mr. Thomas Connelly,</p> <p>19 Mr. Larry Young, Mr. Chief Robert Brookins,</p> <p>20 Sergeant Ronald Crowe.</p> <p>21 Board: Mr. Rollin F. Green, Township Trustee;</p> <p>22 Michael H. Sedlak, Township Clerk; Mark A.</p> <p>23 St. Charles, Supervisor; William L. Desmond,</p> <p>24 Treasurer; Rick Seymour, Township Trustee;</p> <p>25 William M. Palmer, Township Trustee; Philip B. Berg</p>	<p style="text-align: right;">4</p> <p>1 Brighton, Michigan</p> <p>2 Wednesday, August 14, 2002</p> <p>3 6:00 p.m.</p> <p>4 * * *</p> <p>5 MR. ST. CHARLES: At this time we will</p> <p>6 call the special meeting to order.</p> <p>7 I ask that everyone join in the Pledge of</p> <p>8 Allegiance to the flag.</p> <p>9 (Pledge of Allegiance recited by all).</p> <p>10 MR. ST. CHARLES: Have a roll of the</p> <p>11 Board.</p> <p>12 MR. SEDLAK: Mr. Berg is not present.</p> <p>13 Mr. Desmond?</p> <p>14 MR. DESMOND: Here.</p> <p>15 MR. SEDLAK: Mr. Green?</p> <p>16 MR. GREEN: Here.</p> <p>17 MR. SEDLAK: And Mr. Palmer?</p> <p>18 MR. PALMER: Here.</p> <p>19 MR. SEDLAK: Mr. Sedlak here.</p> <p>20 Mr. Seymour?</p> <p>21 MR. SEYMOUR: Here.</p> <p>22 MR. SEDLAK: Mr. St. Charles?</p> <p>23 MR. ST. CHARLES: Here.</p> <p>24 We have a quorum.</p> <p>25 I do point out this is a continuation of</p>																																																
<p style="text-align: right;">3</p> <p>1 INDEX</p> <table border="0"> <tr> <td>2 WITNESS</td> <td>PAGE</td> </tr> <tr> <td>3</td> <td></td> </tr> <tr> <td>4 Sergeant Robert Crowe</td> <td></td> </tr> <tr> <td>5 Examination by Mr. Muskovitz</td> <td>11</td> </tr> <tr> <td>6 Voir Dire by Mr. Osetek</td> <td>16</td> </tr> <tr> <td>7 Examination by Mr. Osetek</td> <td>41</td> </tr> <tr> <td>8</td> <td></td> </tr> <tr> <td>9 Chief Brookins</td> <td></td> </tr> <tr> <td>10 Examination by Mr. Muskovitz</td> <td>49</td> </tr> <tr> <td>11</td> <td></td> </tr> <tr> <td>12 EXHIBITS</td> <td></td> </tr> <tr> <td>13 NUMBER IDENTIFICATION PAGE</td> <td></td> </tr> <tr> <td>14 Ex. 16 Principles for Promoting Police</td> <td></td> </tr> <tr> <td>15 Integrity</td> <td>9</td> </tr> <tr> <td>16 Ex. 17 Green Oak Twp. Police Dept.</td> <td></td> </tr> <tr> <td>17 Non-Lethal Force Policy</td> <td>9</td> </tr> <tr> <td>18</td> <td></td> </tr> <tr> <td>19</td> <td></td> </tr> <tr> <td>20</td> <td></td> </tr> <tr> <td>21</td> <td></td> </tr> <tr> <td>22</td> <td></td> </tr> <tr> <td>23</td> <td></td> </tr> <tr> <td>24</td> <td></td> </tr> <tr> <td>25</td> <td></td> </tr> </table>	2 WITNESS	PAGE	3		4 Sergeant Robert Crowe		5 Examination by Mr. Muskovitz	11	6 Voir Dire by Mr. Osetek	16	7 Examination by Mr. Osetek	41	8		9 Chief Brookins		10 Examination by Mr. Muskovitz	49	11		12 EXHIBITS		13 NUMBER IDENTIFICATION PAGE		14 Ex. 16 Principles for Promoting Police		15 Integrity	9	16 Ex. 17 Green Oak Twp. Police Dept.		17 Non-Lethal Force Policy	9	18		19		20		21		22		23		24		25		<p style="text-align: right;">5</p> <p>1 the hearing adjourned on July 31, 2002.</p> <p>2 Also, for the record, township attorney,</p> <p>3 Tom Connelly is here at Board table.</p> <p>4 If we could have appearances.</p> <p>5 MR. MUSKOVITZ: Melvin Muskovitz</p> <p>6 Appearing on behalf of the police chief and the</p> <p>7 department.</p> <p>8 MR. OSETEK: Peter Osetek on behalf of</p> <p>9 officer Larry Young.</p> <p>10 MR. ST. CHARLES: If my memory serves me</p> <p>11 right, where we were at and where we left off at</p> <p>12 July 31st late in the evening was Mr. Muskovitz,</p> <p>13 you finished with the chief.</p> <p>14 And my understanding was that you were</p> <p>15 reserving the right to recall the chief at that</p> <p>16 time. Am I correct?</p> <p>17 MR. MUSKOVITZ: I indicated that, but I</p> <p>18 also indicated I was going to call Sergeant Crowe</p> <p>19 as a witness. And I am prepared to do that at this</p> <p>20 time.</p> <p>21 MR. ST. CHARLES: I think at that time,</p> <p>22 was there an objection at reserving the right to</p> <p>23 recall the chief?</p> <p>24 MR. OSETEK: Yes.</p> <p>25 MR. ST. CHARLES: Do we know if I ruled</p>
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<p style="text-align: right;">6</p> <p>1 on that objection?</p> <p>2 MR. MUSKOVITZ: I don't believe you</p> <p>3 did.</p> <p>4 I talked to Mr. Osetek subsequently,</p> <p>5 indicated to him again it was my intention to</p> <p>6 recall the chief, but that I could decide not to do</p> <p>7 that if, in fact, if he was going to call witnesses</p> <p>8 after.</p> <p>9 When I am done with Sergeant Crowe, it is</p> <p>10 my intent to either recall the chief or in the</p> <p>11 event he is going to call witnesses, I can hold the</p> <p>12 chief and call the chief as a rebuttal witness.</p> <p>13 And that is where we have left it and</p> <p>14 Mr. Osetek indicated to me, correct me if I am</p> <p>15 wrong, he didn't know what he would do until after</p> <p>16 Sergeant Crowe testified.</p> <p>17 MR. OSETEK: My recollection of the way</p> <p>18 we left it the last evening was that Chief Brookins</p> <p>19 was completed. There was then a lengthy</p> <p>20 consultation between Mr. Muskovitz and the chief,</p> <p>21 and they then came back and asked for an</p> <p>22 adjournment to be able to bring in Sergeant Crowe,</p> <p>23 so Sergeant Crowe could testify about stun guns.</p> <p>24 My recollection is Chief Brookins was</p> <p>25 completed, and we then broke for the evening</p>	<p style="text-align: right;">8</p> <p>1 MR. MUSKOVITZ: It was never raised.</p> <p>2 MR. ST. CHARLES: Okay.</p> <p>3 MR. MUSKOVITZ: I don't think it was</p> <p>4 raised yet formally.</p> <p>5 MR. OSETEK: I am not sure which</p> <p>6 objection.</p> <p>7 I objected at the last session for any</p> <p>8 additional testimony about stun guns. And I still</p> <p>9 maintain that objection. We had ample testimony</p> <p>10 from Chief Brookins about stun guns. And I don't</p> <p>11 believe it is necessary to hear anymore testimony.</p> <p>12 It would be what we call cumulative.</p> <p>13 And therefore, I don't believe that is</p> <p>14 necessary. So I do have that objection.</p> <p>15 MR. ST. CHARLES: The objection I</p> <p>16 believe it is coming back to me, the objection was</p> <p>17 to call Sergeant Crowe then.</p> <p>18 MR. OSETEK: Right, right.</p> <p>19 MR. ST. CHARLES: So there is an</p> <p>20 objection. There is an objection out there not</p> <p>21 ruled on.</p> <p>22 MR. OSETEK: Yes.</p> <p>23 MR. ST. CHARLES: In light of that, I at</p> <p>24 this point, and you understand I think one of the</p> <p>25 things we are trying to do is get all the facts out</p>
<p style="text-align: right;">7</p> <p>1 because Sergeant Crowe was not available. And my</p> <p>2 understanding was the only remaining testimony on</p> <p>3 behalf of the department or the township was going</p> <p>4 to be that of Sergeant Crowe, and that that</p> <p>5 testimony would be limited to the issue of stun</p> <p>6 guns because they felt some need to put some more</p> <p>7 evidence in the record on stun guns.</p> <p>8 MR. MUSKOVITZ: If I can address that.</p> <p>9 I believe he is correct. I don't believe</p> <p>10 at the last session I asked to have the right to</p> <p>11 recall the chief. I don't believe that was raised</p> <p>12 at that time.</p> <p>13 And I did ask for adjournment and then</p> <p>14 there was an objection to that. And then I</p> <p>15 withdrew the request for adjournment and was</p> <p>16 prepared to go forward with Sergeant Crowe. He was</p> <p>17 here. And I think because of the late hour, it was</p> <p>18 about quarter to or 10 to 10:00, it was decided at</p> <p>19 that time to come back to another session.</p> <p>20 MR. ST. CHARLES: In essence, you are</p> <p>21 planning on moving forward now with Sergeant Crowe.</p> <p>22 MR. MUSKOVITZ: That is correct. I did</p> <p>23 not make an official request to recall the chief.</p> <p>24 MR. ST. CHARLES: In other words, we</p> <p>25 don't have to do anything with the objection.</p>	<p style="text-align: right;">9</p> <p>1 so the Board has the ability to make an educated</p> <p>2 opinion.</p> <p>3 I am going to overrule the objection and</p> <p>4 allow the testimony by Sergeant Crowe.</p> <p>5 MR. MUSKOVITZ: I would call Sergeant</p> <p>6 Crowe.</p> <p>7 MR. ST. CHARLES: If you would, please.</p> <p>8 MR. ST. CHARLES: Officer Crowe, you</p> <p>9 will be sworn in by the clerk.</p> <p>10 THE CLERK: Raise your right hand, please.</p> <p>11 Do you swear to tell the truth, whole</p> <p>12 truth and nothing but the truth so help you God?</p> <p>13 MR. CROWE: I do.</p> <p>14 * * *</p> <p>15 SERGEANT RONALD CROWE</p> <p>16 was called as a witness, and after having been</p> <p>17 sworn, was examined and testified as follows:</p> <p>18 MR. MUSKOVITZ: Before -- I will take</p> <p>19 care of that at the end of the testimony.</p> <p>20 I have two additional exhibits I would</p> <p>21 like to introduce.</p> <p>22 Exhibit No. 16, is an excerpt from a</p> <p>23 document called Principles for Promoting Police</p> <p>24 Integrity, published by the Department of Justice.</p> <p>25 I have enough copies for each.</p>

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<p style="text-align: right;">10</p> <p>1 Exhibit 17, is a copy of the Green Oak</p> <p>2 Township Police Department Non-Lethal Force</p> <p>3 Policy.</p> <p>4 Both of these documents have been</p> <p>5 provided to counsel, I believe, yesterday -- or</p> <p>6 Monday, rather.</p> <p>7 MR. SEDLAK: Exhibit No. 16, I don't</p> <p>8 recall what 15 was.</p> <p>9 MR. MUSKOVITZ: Exhibit No. 15 is the</p> <p>10 MCOLS Rule 28.401, that set of rules which was</p> <p>11 provided.</p> <p>12 MR. SEDLAK: Yes, yes, thank you.</p> <p>13 MR. MUSKOVITZ: To the Board.</p> <p>14 MR. ST. CHARLES: Again, if there is no</p> <p>15 objection to it, we will get there.</p> <p>16 So we are clear, because they are not</p> <p>17 marked, Green Oak Township Police Department</p> <p>18 Non-Lethal Force Policy is exhibit what?</p> <p>19 MR. MUSKOVITZ: It is 17.</p> <p>20 MR. ST. CHARLES: Principles is 16?</p> <p>21 MR. MUSKOVITZ: Correct.</p> <p>22 MR. ST. CHARLES: I get my copies marked</p> <p>23 right.</p> <p>24 MR. SEDLAK: So there is 17 and 16,</p> <p>25 okay.</p>	<p style="text-align: right;">12</p> <p>1 continuum of force?</p> <p>2 A Yes.</p> <p>3 Q Do you have a copy of the Department of Justice</p> <p>4 Principles for Promoting Police Integrity?</p> <p>5 A Yes, I do.</p> <p>6 Q That has been marked as Exhibit No. 16.</p> <p>7 Is there a reference in that document to</p> <p>8 continuum of force?</p> <p>9 A Yes.</p> <p>10 Q What page does that appear on?</p> <p>11 A It is on page -- it is the second page past the</p> <p>12 cover on top right called page one of three.</p> <p>13 Q That is the first page of the text of this</p> <p>14 document?</p> <p>15 A Yes.</p> <p>16 Q What is the doctrine theory of continuum of force?</p> <p>17 A It is where -- it is a progression of force when</p> <p>18 you confront subjects ranging from conversation to</p> <p>19 gain a response all the way up to fatal force.</p> <p>20 Q And what, is there -- actually, if you could refer</p> <p>21 that to the Department of Justice --</p> <p>22 MR. OSETEK: May have I voir dire the</p> <p>23 witness on this exhibit?</p> <p>24 MR. ST. CHARLES: What is that?</p> <p>25 MR. OSETEK: May I question the witness</p>
<p style="text-align: right;">11</p> <p>1 Thank you.</p> <p>2 EXAMINATION</p> <p>3 BY MR. MUSKOVITZ:</p> <p>4 Q Could you please state your name for the record?</p> <p>5 A Ron Crowe, C-r-o-w-e.</p> <p>6 MR. OSETEK: I move to close the hearing</p> <p>7 and have Chief Brookins sequestered in the event</p> <p>8 there is an attempt to bring him back in. I think</p> <p>9 it might be appropriate he be removed from the room</p> <p>10 so he does not hear the testimony.</p> <p>11 MR. ST. CHARLES: Okay. We would allow</p> <p>12 that.</p> <p>13 MR. MUSKOVITZ: Normally I believe I</p> <p>14 would be entitled to have a representative here</p> <p>15 with me, but under the circumstances, I would not</p> <p>16 object to that.</p> <p>17 (Chief Brookins left the room.)</p> <p>18 MR. MUSKOVITZ: Okay.</p> <p>19 Q (Continuing by MR. MUSKOVITZ): For my second</p> <p>20 question, your position?</p> <p>21 A I am sergeant with the Green Oak Police Department.</p> <p>22 Q How long have you been employed by the department?</p> <p>23 A By Green Oak Police Department since December of</p> <p>24 1975.</p> <p>25 Q Are you familiar with a doctrine referred to as</p>	<p style="text-align: right;">13</p> <p>1 briefly on this exhibit?</p> <p>2 And let me make an objection to the</p> <p>3 introduction of this.</p> <p>4 This is a United States Department of</p> <p>5 Justice web site, page or pages that has nothing to</p> <p>6 do with the case we are here to hear today. And I</p> <p>7 would like to question Sergeant Crowe to find out</p> <p>8 if there is any basis for him talking about what is</p> <p>9 in this particular document.</p> <p>10 MR. MUSKOVITZ: I would like to just</p> <p>11 respond to that, either before or after he</p> <p>12 questions the witness at your pleasure if you want</p> <p>13 it before or after.</p> <p>14 MR. ST. CHARLES: I would like to hear</p> <p>15 your response to the objection, to the question.</p> <p>16 MR. MUSKOVITZ: I believe the document</p> <p>17 and I believe the contents of the document and the</p> <p>18 issue of continuum of force is relevant to the</p> <p>19 issue here.</p> <p>20 The question before this Board is whether</p> <p>21 or not Larry Young should be terminated from the</p> <p>22 Green Oak Township Police Department. He was</p> <p>23 employed as a police officer and had certain job</p> <p>24 duties to perform. He has made a request in</p> <p>25 writing and verbally to the chief that there be</p>

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<p style="text-align: right;">14</p> <p>1 some form of accommodation, including the ability 2 to use a stun gun so he does not have to use 3 certain physical tactics in doing his police work. 4 And I think the issue then that has to be 5 determined is if, in fact -- first, obviously we 6 just learned a couple weeks ago the use of stun 7 guns just recently, within the last couple weeks, 8 has been sanctioned by the police officers in the 9 State Michigan. Even assuming the department were 10 to adopt the use of a stun gun, the question is, 11 does a stun gun substitute for other use of force 12 to allow the officer to perform his duties as a 13 police officer, therefore being an accommodation of 14 some sort. 15 While it might appear on the face of it 16 that Department of Justice document has no 17 relevance to Larry Young's employment, I think it 18 is very relevant to the issue of whether or not he 19 can perform the duties and therefore, whether or 20 not he is competent to be -- has the competence to 21 be a police officer or is the termination 22 appropriate. 23 MR. ST. CHARLES: Mr. Osetek? 24 MR. OSETEK: I guess I am somewhat at a 25 loss as to, I believe what Mr. Muskovitz indicated</p>	<p style="text-align: right;">16</p> <p>1 we may be coming back again. 2 If that is what you all want to do, we 3 are prepared to do it. But my concern is, when we 4 start talking about pages that we pull off the web, 5 we can be here until the leaves turn. And I don't 6 think we need to do that. 7 With that being said, you know -- 8 MR. ST. CHARLES: Give me a couple 9 seconds. 10 (Discussion held off the record.) 11 MR. ST. CHARLES: Mr. Osetek, we allow 12 you to ask the questions of the witness in 13 reference to this. 14 And are you objecting to the exhibits? 15 You have not objected to the exhibits yet? 16 MR. OSETEK: I reserve that until after 17 I question Sergeant Crowe. 18 VOIR DIRE 19 BY MR. OSETEK: 20 Q My name is Peter Osetek. I don't believe we met 21 before. I am representing Officer Young in this 22 hearing. 23 Do you have a copy of Exhibit No. 16 in 24 front of you? 25 A Yes.</p>
<p style="text-align: right;">15</p> <p>1 the issue was, whether a stun gun substitutes for 2 another use of force. 3 The issue and only issue that you need to 4 decide is whether Officer Young's termination 5 violates the Michigan Veterans Preference Act. It 6 has nothing to do with any U.S. Department of 7 Justice on-line publications. It has nothing to do 8 with the use or nonuse of a stun gun. It has to do 9 with whether what the township is trying to do 10 violates a Michigan statute that relates to 11 evidence. 12 And we spent a lot of time, a lot of your 13 time at the end of July talking about stun guns and 14 all sorts of other things. We have -- you have 15 lots of exhibits, none of which or most of which 16 have no application to the issue you are here to 17 decide. 18 And you know, we can stay here until ten 19 o'clock tonight talking about the continuum of 20 force. I believe even that is duplicative of what 21 Chief Brookins talked about. We can talk about 22 whether Green Oak Township wants to adopt the use 23 of stun guns. We can talk about all sorts of 24 things, none of which are relevant to the issue in 25 front of us. If we go down all these side roads,</p>	<p style="text-align: right;">17</p> <p>1 Q When was the first time you saw that? 2 A Within the last week. 3 Q Is this something that prior to the last week you 4 ever referred to in your position as being a 5 sergeant for Green Oak Township? 6 A In general, yes. This particular document, no. 7 Q No. 8 And are you aware whether Green Oak 9 Township has adopted U.S. Department of Justice 10 policies? 11 A United States Department of Justice issues, as far 12 as I understand, many policies which are then 13 adhered to by various state agencies and all the 14 way down the line. 15 Q Do you know whether Green Oak Township has ever 16 adopted the policies or this document, Principles 17 for Promoting Police Integrity? 18 A Not in the whole, no. 19 Q And where did you receive a copy of Exhibit No. 16? 20 A I found it on the Internet. 21 Q And so were you asked to find things on the 22 internet? 23 A It was through my research on the issue I found 24 this document. 25 Q And what type of research were you doing?</p>